

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JAGEN INVESTMENTS LLC,

Plaintiff,

vs.

CANNON FINANCIAL INSTITUTE, INC., et)

al.,

Defendants.

Case No.: 2:13-cv-00868-GMN-NJK

ORDER

Pending before the Court is the Report and Recommendation, (ECF No. 70), entered by the Honorable Magistrate Judge Nancy J. Koppe denying Plaintiff Jagen Investments LLC's ("Plaintiff's") Second Motion for Default Judgment, (ECF No. 63), against Defendant CenterG ("Defendant"). Plaintiff timely filed its Objection, (ECF No. 71).

I. BACKGROUND

Plaintiff owns a copyright in the literary work entitled "Advanced Estate Planning with Alternative Investments." (First Am. Compl. ("FAC") ¶¶ 24, ECF No. 16). On May 17, 2013, Plaintiff filed this case against numerous Defendants alleging that the copyrighted work was copied, displayed, and distributed without Plaintiff's permission. (*Id.* ¶¶ 66–104).

On September 6, 2013, Defendant was served with the Complaint but never answered, (ECF No. 26). The Clerk entered default against Defendant on October 23, 2013, and on April 7, 2016, Plaintiff filed its Second Motion for Default Judgment against Defendant. (Mot. for Default J., ECF No. 63).

On June 27, 2016, Judge Koppe recommended that Plaintiff's Motion be denied for lack of personal jurisdiction over Defendant and therefore recommended dismissing the claims against Defendant. (*Id.*). Plaintiff filed its Objections on July 11, 2016, (ECF No. 71).

1 **II. LEGAL STANDARD**

2 A party may file specific written objections to the findings and recommendations of a
3 United States Magistrate Judge made pursuant to Local Rule IB 1–4. 28 U.S.C. § 636(b)(1)(B);
4 D. Nev. R. IB 3–2. Upon the filing of such objections, the Court must make a *de novo*
5 determination of those portions of the Report to which objections are made. *Id.* The Court may
6 accept, reject, or modify, in whole or in part, the findings or recommendations of the Magistrate
7 Judge. 28 U.S.C. § 636(b)(1); D. Nev. IB 3–2(b).

8 **III. DISCUSSION**

9 Plaintiff’s Objection asserts that the Report and Recommendation “does not provide
10 sufficient guidance as to the standard for evaluating personal jurisdiction based upon specific
11 jurisdiction in the copyright infringement context.” (Mot. for Default J. 2:8–10). Specifically,
12 Plaintiff takes issue with the fact that “[p]otential copyright owners are left with tremendous
13 uncertainty over what the standard for personal jurisdiction presently [is] based upon the
14 R&R.” (*Id.* 2:15-16). Plaintiff continues “if *Walden* erodes *Washington Shoe*, that begs the
15 question of to what extent, how, and what is the replacement standard.” (*Id.* 3:17-18); *see*
16 *Walden v. Fiore*, 571 U.S. 277 (2014); *Washington Shoe Co. v. A-Z Sporting Goods, Inc.*, 704
17 F.3d 668 (9th Cir. 2012).

18 However, as stated in the Report and Recommendation, the Supreme Court expressly
19 left open in *Walden* the application of its reasoning to decide “whether and how a defendant’s
20 virtual ‘presence’ and conduct translate into ‘contacts’ with a particular State.” *Walden v.*
21 *Fiore*, 571 U.S. 277, 290 n. 9 (2014). This statement in itself recognizes that the holding
22 affects other topics with personal jurisdiction, such as the copyright scenario. Moreover, since
23 the Report and Recommendation has been pending, the Ninth Circuit decided the copyright
24 case of *Axiom Foods, Inc. v. Acerchem Int’l, Inc.*, 874 F.3d 1064 (9th Cir. 2017), where it
25 clarified that “[i]n light of the Court’s instructions in *Walden*, mere satisfaction of the test

1 outlined in *Washington Shoe*, without more, is insufficient to comply with due process.” 874
2 F.3d at 1070. Accordingly, the Court agrees with Judge Koppe’s Report and Recommendation
3 in applying *Walden* as overriding *Washington Shoe*, and holds that the Court cannot exercise
4 personal jurisdiction over Defendant.

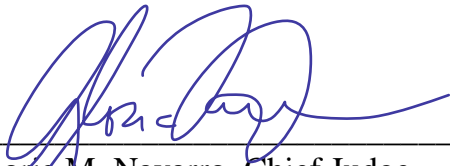
5 **IV. CONCLUSION**

6 **IT IS HEREBY ORDERED** that the Report and Recommendation, (ECF No. 70), is
7 **ACCEPTED and ADOPTED in full.**

8 **IT IS FURTHER ORDERED** that Plaintiff’s Motion for Default Judgment, (ECF No.
9 63), is **DENIED.**

10 **IT IS FURTHER ORDERED** that the claims against Defendant CenterG are
11 **DISMISSED** for lack of personal jurisdiction.

12 **DATED** this 11 day of September, 2018.

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16 Gloria M. Navarro, Chief Judge
17 United States District Court
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